

REMARKS

This amendment is responsive to the Office Action mailed September 3, 1997 setting a three month shortened statutory period for response expiring on December 3, 1997. For the reasons set forth below, applicants submit that this application is now in condition for allowance.

In the Office Action, paragraphs 1 and 2 assert a non-statutory obviousness type double patenting rejection of claims 26-41 over claims 1-20 of US Patent No. 5,511,897. The examiner states that the basis for this rejection is that claims 26-41 are broad enough to encompass the method and kit claimed in the '897 patent. Applicants will timely submit a terminal disclaimer disclaiming that part of the patent to issue on this application that would otherwise survive beyond expiration of Patent No. 5,511,897, upon an indication of allowability of at least one claim in the present application.

The examiner rejected claims 26 through 41 under 35 USC 103(a) over Arntyr et al in view of Nimke et al. The Examiner stated that the Arntyr patent teaches a method of sealing a manhole riser by placing an elastomeric band over the manhole riser but does not disclose the use of an adhesive. Nimke is cited and applied as disclosing the missing adhesive. The Examiner is respectfully requested to reconsider this interpretation and withdraw this rejection. The Arntyr patent teaches sealing a manhole riser by installing first an elastomeric sleeve around the joint and a metal band around the base of the sleeve and another metal band around the top of the sleeve which allows some axial movement between the joined sections. These compression bands provide the compressive seal for the elastomeric sleeve to allow longitudinal movement of the joined sections without undesirable fill material getting into the joint during alternating freeze and thaw conditions. This unwanted material that gets into the joint would prevent the sections from returning to the contracted position once the ground surrounding the drain or manhole thaws out.

Nimke et al discloses a spring coil sheet having a heat activated bonding material distributed on one side of the sheet. The coil sheet forms a coil sleeve around a pair of gas pipe ends forming a pipe joint and is heated to melt the bonding material and seal the sleeve to the pipe ends. The Nimke et al patent is directed to joining

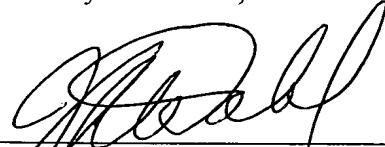
relatively small tubing or piping which is small enough to permit uniform heating of the entire coil at the same time in order to provide uniform flow of material 16 and prevent distortion of the coil 12. In addition, the heat sensitive material 22 holds the coil 12 away from the pipe wall until heated above the melting point of the material 22, thereby allowing the coil 12 to exert a compressive force against the pipe surface as the heat sensitive material 16 melts in order to provide a seal. This application is quite different than Applicants' invention which involves a very large (manholes are typically around 30-36 inches in inside diameter, catch basins even larger) cement structure being joined in the field to another similarly sized cement structure. These structures are much larger than the gas piping that is the subject of Nimke et al.

In Applicant's invention, as in Arntyr et al, the cement joint cannot be uniformly heated as is necessary in Nimke et al in the field because of its size. Further, a spring coil sheet as in Nimke et al would be impossible, because of its size, to manually put in place on a large cement pipe as the spring coil sheet must apply a compressive force uniformly against the pipe during the heating process to form a good seal. Thus for two reasons Nimke et al would be inoperable as applied to cement manhole risers and catch basins. Further, if the distributed heat activated adhesive of Nimke were applied inside the Arntyr et al arrangement it would destroy the main function of the Arntyr et al invention, i.e., to allow axial movement of the two members. Thus it is submitted that these two references taken together do not teach Applicant's invention as is set forth in the pending claims and are not properly combinable. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of these claims.

The prior art simply does not suggest or disclose a manhole or catch basin sealing kit having a band of elastomeric material with an adhesive on an interior surface of the band as set forth in the amended claims. The prior art also does not suggest or disclose a method of sealing a manhole riser or catch basin as set forth in the amended claims. Applicant therefore submits that all of the now pending claims are allowable and the application is now in condition for allowance. Accordingly, prompt reconsideration and passage of the application to issue are earnestly solicited. Should the Examiner have any remaining questions or unresolved concerns, he is encouraged

to contact the undersigned by telephone at the earliest opportunity to resolve such concerns.

Respectfully submitted,



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